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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JOSE ANGEL MIRANDA

Plaintiff,

vs.

CITY OF CORONA, a public entity;  
CORONA POLICE DEPARTMENT, a  
public entity; OFFICER MAX  
MEDEIROS, an individual; OFFICER  
RICHARD YOUNGQUIST, an  
individual; OFFICER TIMOTHY I.  
NAJMULSKI, an individual; OFFICER  
ROBERT LEWIS PAUL, an individual;  
OFFICER DOUGLAS D. DOTY, an  
individual; and DOES 1-50, inclusive,

Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES FOR:**

- 1. CIVIL RIGHTS VIOLATIONS  
PURSUANT TO 42 U.S.C. 1983  
EXCESSIVE FORCE;**
- 2. CIVIL RIGHTS VIOLATIONS  
PURSUANT TO 42 U.S.C. 1983  
4<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT  
UNREASONABLE SEARCH  
AND SEIZURE/FALSE;  
ARREST/DETENTION;**
- 3. CIVIL RIGHTS VIOLATIONS  
PURSUANT TO 42 U.S.C. 1983  
MONELL RELATED CLAIMS;**
- 4. VIOLATION OF CAL. CIVIL  
CODE § 52.1;**
- 5. FALSE ARREST AND FALSE  
IMPRISONMENT;**
- 6. NEGLIGENCE INFLICTION OF  
EMOTIONAL DISTRESS;**
- 7. INTENTIONAL INFLICTION  
OF EMOTIONAL DISTRESS;**
- 8. BATTERY;**
- 9. ASSAULT;**
- 10. NEGLIGENCE**

**DEMAND FOR JURY TRIAL**

Comes now, Plaintiff, JOSE ANGEL MIRANDA, who complains and alleges  
as follows:

1 **INTRODUCTION**

2 1. This action arises out of events that took place on or about December  
3 12, 2014. This is a complaint for money damages by Plaintiff arising under 42  
4 U.S.C. §§ 1983 and 1988, and supplemental state law claims actionable under  
5 California Civil Code § 52.1 and California Code of Civil Procedure, § 526a.  
6 Plaintiff seeks redress for deprivation of his rights, privileges and immunities,  
7 secured by the Fourth and Fourteenth Amendments to the United States Constitution.

8 **JURISDICTION AND VENUE**

9 2. Subject matter jurisdiction for this action is conferred upon this Court  
10 pursuant to 28 U.S.C. §§1331 and 1343, as it arises under 42 U.S.C. §1983.

11 3. The acts complained of arose in the Central District of California.  
12 Therefore, venue properly lies here pursuant to 28 U.S.C. § 1391. Venue in this  
13 Court is also proper pursuant to 28 U.S.C. §1391(b)(1) in that one or more  
14 Defendants reside in or have its principal place of business in the Central District of  
15 California.

16 **JURISDICTIONAL PREREQUISITES**

17 4. Prior to the filing of this Complaint, and within six months of the  
18 incidents herein alleged, on or about May 21, 2015, Plaintiff filed/served a  
19 Government Tort Claim and/or Claim for Damages with the City of Corona, in  
20 compliance with California Government Code Section 910, et. seq. Plaintiff is  
21 informed and believes and on that basis alleges that the Tort Claim was assigned  
22 Claim Number 0515-05 by the City of Corona.

23 6. On or about June 29, 2015, Plaintiff's Government Tort Claim was  
24 rejected pursuant to California Government Code Section 945.6 et seq. (A true and  
25 correct copy of the Notice of Claim Rejection is attached hereto as Exhibit "1" and  
26 incorporated herein by this reference.) Thus, prior to the filing of this Complaint, six  
27 months had not elapsed since the rejection of the Government Tort Claim.

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7. Based on the foregoing, Plaintiff herein has complied with the provisions of California Government Code section 910 *et seq.*, including but not limited to California Government Code Section 911.2 *et. seq.* and California Government Code Section 945.6 *et. seq.* and by timely filing claims with Defendant City of Corona and timely filing this lawsuit after rejection thereof.

### **PARTIES**

5. Plaintiff, JOSE ANGEL MIRANDA (hereinafter “MIRANDA” or “Plaintiff”), at all times herein mentioned, is and was an individual residing in the State of California, County of Riverside, City of Corona.

6. Plaintiff is informed and believes and on that basis alleges that Defendant CITY OF CORONA (“CITY”) is a municipality duly organized and existing under the laws of the State of California having the powers specified by the constitution and laws of the State of California, is a public entity within the meaning of California Government Code § 815.2, and is the public employer of the Corona Police Department officers sued herein.

7. Plaintiff is informed and believes and on that basis alleges that Defendant CORONA POLICE DEPARTMENT (“CPD”), is and was, at all times pertinent herein, a law enforcement agency organized and existing under the Municipal Code and Charter of the CITY OF CORONA, laws of the State of California, and is the public employer of the Corona Police Department officers sued herein.

8. Plaintiff is informed and believes and on that basis alleges that, for the purposes of this action and in said capacity, Defendant CITY is responsible for and administers the CPD, which in turn promulgates policies and practices for patrolling and policing various areas of the City of Corona, including but not limited to the area near 870 South Sherman Avenue, Corona, California.

9. Plaintiff is informed and believes and on that basis alleges that, Defendant CITY, through its component departments, runs, operates, oversees,

1 administers, supervises, and are otherwise responsible for the conduct of CPD  
2 officers and employees, including acts and omissions of CPD officers, employees  
3 and agents and other CPD workers.

4 10. At all times pertinent herein CITY and/or CPD and/or DOE Defendants  
5 1-10, possessed the power and authority to adopt policies and prescribe rules,  
6 regulations and practices affecting all facets of the training, supervision, control,  
7 employment, assignment and removal of individual members of the CPD, including  
8 those individuals charged with patrolling and policing the community, and to assure  
9 that said actions, policies, rules, regulations, practices and procedures of the CPD  
10 and its employees and agents comply with the laws and constitutions of the United  
11 States and of the State of California.

12 11. CITY, CPD and "DOE" Defendants 1-10, may hereafter be referred to  
13 herein collectively as "CITY DEFENDANTS."

14 12. Plaintiff is informed and believes and on that basis allege that  
15 Defendants OFFICER MAX MEDEIROS, OFFICER RICHARD YOUNGQUIST,  
16 OFFICER TIMOTHY I. NAJMULSKI, OFFICER ROBERT LEWIS PAUL,  
17 OFFICER DOUGLAS D. DOTY and "DOES" 11 to 20 (hereinafter alternatively  
18 referred to collectively as "OFFICER DEFENDENTS"), are officers, sergeants or  
19 lieutenants, who were at the time of committing the acts alleged hereinafter, duly  
20 authorized employees of defendant CITY and/or CPD, who were acting within the  
21 course and scope of their respective duties and with the complete authority and  
22 ratification of defendant CITY and/or CPD. At all relevant times herein, said  
23 defendants, and each of them, were acting under color of law, to wit: under the color  
24 of the statutes, ordinances, regulations, policies, customs and usages of defendants  
25 CITY and/or CPD and the State of California.

26 13. Plaintiff is presently genuinely ignorant of the true names of  
27 Defendants sued herein as "DOES" 1 through 20, inclusive, and therefore sue these  
28 "DOES" 1 through 20 as defendants herein by such fictitious names. Plaintiff will

1 amend this Complaint to insert the true names of each such "DOES" 1 through 20  
2 when ascertained.

3 14. Plaintiff is informed and believes, and on that basis herein alleges, that,  
4 at all pertinent times hereto, each of the individual "DOE" defendants sued herein as  
5 "DOES 1-20" were and are residents of, or doing business in, the County of  
6 Riverside, State of California.

7 15. Plaintiff is informed and believes, and on the basis of that information  
8 and belief, alleges that at all times mentioned in this complaint, defendants and  
9 DOES 1 through 20, inclusive, were actual and/or ostensible agents of each of the  
10 other defendants, and in doing the things alleged in this complaint were acting within  
11 the course and scope of that ostensible agency.

12 **BACKGROUND/COMMON FACTUAL ALLEGATIONS**

13 16. The events that give rise to this action occurred on or about December  
14 12, 2014, at or near an apartment complex located at 870 South Sherman Avenue  
15 (the "Sherman Avenue Apartments"), in the City of Corona, County of Riverside,  
16 State of California. At the time of the events described herein, Plaintiff MIRANDA  
17 resided in the apartments at that address.

18 17. Plaintiff MIRANDA is a young Hispanic man with no prior criminal  
19 record. MIRANDA was born to immigrants from Mexico. Plaintiff graduated from  
20 High School in Corona and is now attending Riverside Community College with the  
21 intent to transfer UCLA. He is working his way through school as a cashier at a  
22 Mexican restaurant.

23 18. On Friday, December 12, 2014, at approximately 5:00 p.m., Mr.  
24 Miranda was alone in his apartment. He had just received a call that his friends were  
25 outside waiting to drive him to another location, so Mr. Miranda walked downstairs  
26 to get in his friend's car. The plan was to go to the home of David Benitez where he  
27 would meet his girlfriend.  
28

1           19. David Benitez was driving a gray Volkswagen Jetta which was parked  
2 right in front of the apartment complex, on Sherman Avenue, facing the nearest  
3 signal.

4           20. MIRANDA opened the gate that enclosed the Sherman Avenue  
5 Apartments and walked behind David Benitez' car and got into the back passenger  
6 seat on the left side. Mr. Benitez was in the driver's seat and David's friend  
7 "Brandon" (later identified as Brandon Thomas Gilbert, and hereafter referred to as  
8 "Brandon") was sitting in the right front passenger seat of the Jetta.

9           21. While sitting in Mr. Benitez' Jetta for only a few moments, Plaintiff  
10 heard a siren behind him and a voice on a loud speaker instructing the occupants of  
11 the car to get out one at a time. The occupants of the Jetta complied with the request.

12           22. The first one to exit the vehicle was David Benitez, whom Plaintiff is  
13 informed and believes is a UCR pre-med student. Mr. Benitez exited the front of the  
14 car with his hands up and walked over to the adjacent grass area where he kneeled.  
15 Mr. Miranda's view of the police at the time was limited to the fact that he was  
16 sitting in the back seat.

17           23. Plaintiff was then instructed to get out of the car. At that time, unknown  
18 officers directed Plaintiff to "face the signal." However, Sherman Avenue has signals  
19 on both ends of the street, and MIRANDA turned toward the first signal that he was  
20 able to observe. Moving toward this signal, MIRANDA apparently turned toward the  
21 police because he was confused as to what signal he was supposed to look at. The  
22 police told him immediately in a stern manner to turn around.

23           24. The police then told MIRANDA to back up and side-step toward the  
24 grass with his hands up. During the course of moving toward the grass, MIRANDA  
25 noticed that there were policemen behind him with guns drawn. At that time, he also  
26 noticed police cars located behind him.

27           25. MIRANDA was then instructed to kneel down on the grass and put his  
28 hands behind his head. MIRANDA was compliant with the orders. Without cause,



1 OFFICER MAX MEDEIROS knocked down MIRANDA from behind and therefore  
2 MIRANDA fell face forward onto the ground with significant momentum.  
3 MIRANDA'S face made an impact with the grass and mud. At no time did he resist  
4 arrest and he complied with all orders.

5 26. In response to the impact with the ground, MIRANDA screamed in  
6 pain, while OFFICER MAX MEDEIROS grabbed MIRANDA'S arms very quickly  
7 and in a violent manner. OFFICER MAX MEDEIROS was quickly joined by the  
8 other OFFICER DEFENDANTS.

9 27. OFFICER MAX MEDEIROS violently and aggressively grabbed  
10 MIRANDA'S right arm then rapidly pushed/pulled/twisted Plaintiff's right arm far  
11 behind Plaintiff's back, up toward Plaintiff's neck, and while doing so caused the  
12 arm to fracture thus causing a loud "crack" sound that was heard by other people in  
13 the area and which was recorded via (and is audible on) audio tape or other digital  
14 recording.

15 28. The loud crack was the sound of MIRANDA'S right arm being severely  
16 fractured by the excessive and completely unwarranted force used by OFFICER  
17 MAX MEDEIROS.

18 29. Plaintiff recalls that OFFICER MAX MEDEIROS claimed at the time  
19 that he thought he had ripped MIRANDA's jacket. However, MIRANDA  
20 immediately said: "I think you broke my arm."

21 30. Despite the obvious fact that MIRANDA's arm was broken, rapidly  
22 swelling, and the fact that MIRANDA was in immense pain, he was then handcuffed  
23 which caused him further immense pain.

24 31. Shortly after handcuffing MIRANDA while he was on the ground, the  
25 officers started taunting him. They called him a cry baby and attacked his manhood.  
26 When he complained about his arm being broken, the OFFICER DEFENDANTS  
27 stated words to the effect of "maybe you should drink more milk." While in the  
28 prone position, MIRANDA was repeatedly told to shut up. One of the OFFICER

1 DEFENDANTS stated that since MIRANDA was injured, he finally had some  
2 “street cred.” MIRANDA complied with all requests made by the OFFICER  
3 DEFENDANTS after he was handcuffed. At no time while he was at the scene of  
4 the arrest, was he told that he was under arrest.

5 32. Instead of allowing MIRANDA to get up under his own power, the  
6 OFFICER DEFENDANTS then picked him up to his feet. Plaintiff recalls standing  
7 for a while until one of the OFFICER DEFENDANTS ordered another OFFICER  
8 DEFENDANT to take him to a patrol car. He was placed in a patrol car with  
9 handcuffs on but had to lean to the left because his right arm was so painful.

10 33. At some time shortly after MIRANDA was attacked and sustained a  
11 fractured arm, the OFFICER DEFENDANTS, MAX MEDEIROS, RICHARD  
12 YOUNGQUIST, and the other OFFICER DEFENDANTS were expressly advised  
13 that Plaintiff was NOT the suspect that they had been looking for. **The police had**  
14 **the wrong man.**

15 34. Despite the fact the OFFICER DEFENDANTS knew they had the  
16 wrong man, they kept MIRANDA in custody and in handcuffs which further  
17 increased MIRANDA’s pain and suffering.

18 35. After passage of some additional time, MIRANDA was asked if he  
19 wanted the fire department called to the scene of the accident to treat his arm.  
20 MIRANDA did not want an ambulance. He wanted his friends or girlfriend to drive  
21 him to the hospital. He was denied that basic right.

22 36. As time passed, the cuffs were taken off, but only temporarily.  
23 MIRANDA was allowed to take his jacket off which revealed a very swollen right  
24 arm.

25 37. The Fire Department paramedics arrived about 15 to 20 minutes later.  
26 The paramedic had to cut his shirt in order to access the arm due to the swelling in  
27 his arm that was clearly present at the time. They told MIRANDA that his arm was  
28 probably broken but they would not be able to determine that unless they sent him to



1 the hospital for an x-ray. Again, MIRANDA did not want an ambulance ride to the  
2 hospital as he wanted to be transported by either his friends or girlfriend.

3 38. At this point, MIRANDA assumed he was free to go to the hospital as  
4 the OFFICER DEFENDANTS arrested the wrong man. Further leading to this  
5 belief, MIRANDA was then released from his handcuffs, at which point he started  
6 walking toward his car. However, he was then stopped by another OFFICER  
7 DEFENDANT who said that he could not go directly to the hospital. OFFICER  
8 MAX MEDEIROS, the officer who MIRANDA believes broke his arm asked  
9 MIRANDA: "Do you want to speak to a supervisor?" MIRANDA responded that he  
10 did.

11 39. MIRANDA was then confronted by another OFFICER DEFENDANT,  
12 whom MIRANDA describes as having gray hair and being in his fifties, and who  
13 appeared to be a supervisor. MIRANDA recalled that the supervisor asked: "why  
14 were you resisting arrest?" MIRANDA responded by stating that he had not been  
15 resisting arrest. MIRANDA recalls that the supervisor accused MIRANDA of lying  
16 about the fact that he had merely come out of his apartment.

17 40. Shortly after the discussion with the supervisor, MIRANDA is informed  
18 and believes that the Supervisor ordered MIRANDA to be handcuffed. **MIRANDA**  
19 **was now being falsely accused of resisting arrest.** Without any cause,  
20 MIRANDA, a citizen of Corona, **again** lost his freedom and rights.

21 41. Witnesses and MIRANDA were berated with leading questions by the  
22 OFFICER DEFENDANTS about whether OFFICER MAX MEDEIROS abused  
23 MIRANDA. The campaign of OFFICER MAX MEDEIROS and the other  
24 OFFICER DEFENDANTS to obtain an admission from MIRANDA and his friends  
25 was relentless, shameful, abusive and unprofessional.

26 42. To make matters worse, MIRANDA was forced to be transported to the  
27 hospital by OFFICER MAX MEDEIROS, **the man who used unlawful excessive**  
28 **force to break MIRANDA's arm.**

1           43. At some point during his transportation to the hospital, OFFICER MAX  
2 MEDEIROS remorselessly told MIRANDA: "Damn, I know I broke your arm."

3           44. While at the hospital, MIRANDA remained handcuffed and had to wait  
4 an extensive amount of time. He finally got in to get an x-ray and was later told by  
5 the ER physician that he had a fracture of the humerus and had to follow-up with an  
6 orthopedic surgeon.

7           45. Officers from CPD were present when MIRANDA was told of the  
8 nature and extent of his injury, and thus the CPD, CITY DEFENDANTS and the  
9 OFFICER DEFENDANTS knew, or should have known, of the severity of the injury  
10 at that time. All totaled, MIRANDA estimates that he remained in the hospital for  
11 approximately 2-3 hours, handcuffed nearly the entire time.

12           46. After being released by the emergency room doctors, MIRANDA was  
13 again placed back into handcuffs and transported to the Corona Police Station,  
14 arriving at approximately 9:30 p.m. Upon arrival, MIRANDA was booked which  
15 included being photographed and fingerprinted with both hands. The fingerprinting  
16 process was very painful.

17           47. MIRANDA was then placed in a cell where he had to wait for an  
18 additional amount of time. He believes that he exited the police department around  
19 10:30 to 10:40 p.m. through the back door.

20  
21                           **CLAIMS FOR RELIEF**

22                           **FIRST CLAIM FOR RELIEF**

23                           **(VIOLATION OF 42 U.S.C. § 1983)**

24                           **(4th and 14th Amendments - Excessive Use of Force)**

25                           **(Against All Defendants)**

26           48. Plaintiff alleges and incorporates herein by reference all of the  
27 allegations contained in paragraphs 1 through 47, inclusive, as if fully set forth  
28 herein.

1           49. This action is brought pursuant to 42 U.S.C. §1983, and the Fourth and  
2 Fourteenth Amendments of the United States Constitution.

3           50. On December 12, 2014, PLAINTIFF possessed the right, guaranteed by  
4 the Fourth and Fourteenth Amendments of the United States Constitution, to be free  
5 from unreasonable seizures in the form of excessive force by police officers acting  
6 under the color of law.

7           51. At the time that OFFICER MAX MEDEIROS assaulted and battered  
8 PLAINTIFF as described, PLAINTIFF had not assaulted any of the Defendants nor  
9 any other person, was unarmed, compliant, and helpless, and the attack upon  
10 PLAINTIFF was unjustified and unreasonable under the circumstances and  
11 constituted an excessive use of force, and a violation of his Fourth and Fourteenth  
12 Amendment rights.

13           52. The attack violated PLAINTIFF's rights under the laws and  
14 Constitution of the United States, in particular the Fourth and Fourteenth  
15 Amendment of the United States Constitution.

16           53. OFFICER MAX MEDEIROS, with the consent, ratification and/or  
17 affirmation of the other OFFICER DEFENDANTS and CITY DEFENDANTS,  
18 subjected PLAINTIFF to the aforementioned deprivations by either actual malice,  
19 deliberate indifference or a reckless disregard of his rights under the U.S.  
20 Constitution.

21           54. DEFENDANTS acted at all times herein knowing full well that the  
22 established practices, customs, procedures, and policies of CITY DEFENDANTS  
23 and CPD, would allow a cover-up and allow the continued use of illegal force in  
24 violation of the Fourth Amendment of the Constitution of the United States and  
25 would permit said officers to justify the assault on PLAINTIFF by falsely reporting  
26 that any injuries to PLAINTIFF were caused by PLAINTIFF "resisting arrest,"  
27 allegedly interfering with a police investigation, or by PLAINTIFF's own alleged  
28 misconduct.

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2 55. Said false reporting and ratification of said DEFENDANTS' conduct  
3 was made with the intent to assure that people like PLAINTIFF would be dissuaded  
4 from petitioning their grievances against the CITY DEFENDANTS and CPD for  
5 such misconduct so that such misconduct could instead, prevail and subjugate its  
6 citizens.

7 56. As a direct and proximate result of the aforementioned acts of  
8 DEFENDANTS, PLAINTIFF suffered serious physical, psychological and  
9 emotional injuries, as well as property damage and loss of his liberty and freedom, in  
10 an amount to be proven at the time of trial, and that exceeds the jurisdictional  
11 amount of this Court. As a further direct and proximate result of said injuries,  
12 PLAINTIFF suffered loss of earnings and loss of earning capacity in amounts to be  
13 proven at trial.

14 57. The acts of the OFFICER DEFENDANTS were willful, wanton,  
15 malicious, and oppressive thereby justifying the awarding of exemplary and punitive  
16 damages as to said individual OFFICER DEFENDANTS.

17 58. Further, as a result of the foregoing, Plaintiff MIRANDA seeks an  
18 award of reasonable attorneys' fees and costs according to proof, pursuant to 42  
19 U.S.C. §1988.

20 **SECOND CLAIM FOR RELIEF**

21 **(VIOLATION OF 42 U.S.C. § 1983)**

22 **(4th and 14th Amendment- Unreasonable Search and**  
23 **Seizure/False Arrest and Detention)**

24 **(Against All Defendants)**

25 59. Plaintiffs allege and incorporate herein by reference all of the  
26 allegations contained in paragraphs 1 through 58, inclusive, as if fully set forth  
27 herein.

28 60. This action is brought pursuant to 42 U.S.C. §1983, and the Fourth and

1 Fourteenth Amendments of the United States Constitution.

2 61. On December 12, 2014, PLAINTIFF possessed the right, guaranteed by  
3 the Fourth and Fourteenth Amendments of the United States Constitution, to be free  
4 from unreasonable seizures in the form of unreasonable Search and Seizure/False  
5 Arrest and Detention by police officers acting under the color of law.

6 62. By engaging in the conduct described hereinabove, OFFICER  
7 DEFENDANTS and DOES 11-20, and each of them, were acting or pretending to  
8 act, under the color of state law as police officers employed by Defendant CPD, and  
9 violated Plaintiff MIRANDA's civil rights afforded to him under the United States  
10 Constitution, including privileges and immunities secured to Plaintiff MIRANDA by  
11 the Constitution of the United States, namely, Plaintiff MIRANDA's right: (1) to be  
12 free from unreasonable search and seizure and false arrest in violation of his rights  
13 protected under the Fourth and Fourteenth Amendments; (2) his right to be free from  
14 abuse of process as protected by the Fourth Amendment, (3) his right to be free from  
15 malicious prosecution as protected by the Fourth Amendment, and (4) his right to be  
16 free from a conspiracy to falsify evidence of the crimes of resisting arrest and battery  
17 on a police officer and thereafter prosecute Plaintiff in violation of his rights  
18 protected under the Fourth and Fourteenth Amendments.

19 63. As a direct and proximate result of Defendants' wrongful conduct  
20 described hereinabove, Plaintiff MIRANDA suffered physical, emotional and  
21 financial injuries.

22 64. Plaintiff MIRANDA has suffered special and general damages as  
23 allowable under federal law in an amount to be proven at trial. These injuries and  
24 damages are ongoing.

25 65. Plaintiff is informed, believes and based thereon alleges that, in  
26 engaging in the conduct alleged herein, Defendants and DOES 11-20 acted with the  
27 intent to injure, vex, annoy and harass Plaintiff MIRANDA, and subjected Plaintiff  
28 MIRANDA to cruel and unjust hardship in conscious disregard of Plaintiff

1 MIRANDA's rights with the intention on the part of the Defendants of thereby  
2 depriving Plaintiff MIRANDA of his liberty and legal rights and otherwise cause  
3 Plaintiff MIRANDA's injury.

4 66. As a result of the foregoing, Plaintiff MIRANDA seeks exemplary and  
5 punitive damages against the OFFICER DEFENDANTS.

6 67. Further, as a result of the foregoing, Plaintiff MIRANDA seeks an  
7 award of reasonable attorneys' fees and costs according to proof, pursuant to 42  
8 U.S.C. §1988.

9 **THIRD CLAIM FOR RELIEF**

10 **(Monell Related Claims Based on 42 U.S.C. § 1983)**

11 **(AGAINST DEFENDANTS, CITY OF CORONA, CORONA POLICE**  
12 **DEPARTMENT AND DOES 1-10)**

13 68. Plaintiffs allege and incorporate herein by reference all of the  
14 allegations contained in paragraphs 1 through 67, inclusive, as if fully set forth  
15 herein.

16 69. This action is brought pursuant to 42 U.S.C. §1983, and the Fourth and  
17 Fourteenth Amendments of the United States Constitution.

18 70. On December 12, 2014, PLAINTIFF possessed the right, guaranteed by  
19 the Fourth and Fourteenth Amendments of the United States Constitution, to be free  
20 from excessive use of force and unlawful seizure and deprivation of liberty.  
21 Defendants CITY DEFENDANTS, CPD and DOES 1-10's violations of Plaintiff  
22 MIRANDA's Fourth and Fourteenth Amendment rights to be free from excessive  
23 use of force and unlawful seizure and deprivation of liberty, as set forth herein, were  
24 the direct and proximate results of all the CITY DEFENDANTS, CPD and DOES 1-  
25 10 maintaining longstanding customs, policies, practices and/or procedures that  
26 tolerate and condone OFFICER DEFENDANTS' violations, set forth hereinabove  
27 and below.  
28



1           71. These longstanding customs, policies, practices and/or procedures,  
2 include, but are not limited to, CITY DEFENDANTS and CPD'S standard operating  
3 procedures as well as accepted practices.

4           72. Said customs, policies, practices and/or procedures include, *inter alia*:  
5 an ongoing pattern of condoning and having a deliberate indifference towards  
6 citizens' constitutional rights in connection with the following acts committed by  
7 CPD officers: (1) the use of excessive force or violence, in a reckless and  
8 unreasonable manner; (2) unconstitutional seizures and deprivations of liberty; (3)  
9 the conforming of false testimony, evidence or reports by all officers involved in an  
10 incident to protect one or more of them from criminal prosecution or administrative  
11 discipline; (4) the performance of sham or deficient investigations of allegations of  
12 deputy misconduct designed to allow officers' misconduct to escape detection by  
13 superiors and/or superiors who guide or shape the investigation to support a result  
14 exonerating the involved officers; (5) the planting of evidence or withholding  
15 evidence to favor the involved officers' version of a disputed and complained of  
16 incident of police misconduct; (6) the ratification of misconduct to avoid referral for  
17 criminal prosecution, and (7) the public denial or minimization of rampant problems  
18 of dishonesty and brutality within the CPD.

19           73. Plaintiff is informed, believes and based thereon alleges that Defendants  
20 CITY DEFENDANTS, CPD and DOES 1- 10 knew, or in the exercise of reasonable  
21 care should have known, that prior to December 12, 2014, that CPD officers,  
22 including OFFICER DEFENDANTS and DOES 11-20, were engaging in the  
23 conduct described hereinabove.

24           74. Plaintiff is informed, believes and based thereon alleges that Defendants  
25 CITY DEFENDANTS, CPD, and DOES 1-10 knew, or in the exercise of reasonable  
26 care should have known, prior to December 12, 2014, that CPD officers, including  
27 OFFICER DEFENDANTS and DOES 11-20, had a history, propensity, pattern and  
28

1 practice of adhering to the unlawful and unconstitutional police actions described  
2 herein and above.

3 75. Plaintiff is informed, believes and based thereon alleges that Defendants  
4 CITY DEFENDANTS, CPD, and DOES 1-10 have customs, policies or practices  
5 which reject and ignore misconduct of CPD officers and fail to impose discipline.  
6 As a result, the custom, practice or policy resulted in the retention of officers such as  
7 Defendants OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS.

8 76. Plaintiff is informed and believes that civil claims and lawsuits have  
9 been filed against officers employed by the CPD for constitutional violations such as  
10 use of excessive force, unreasonable seizure, liberty deprivations and falsification of  
11 evidence.

12 77. Plaintiff is informed, believes and based thereon alleges that the CITY  
13 DEFENDANTS and DOES 1-10, have customs, policies or practices which reject  
14 and ignore misconduct of CPD officers and fail to impose discipline. As a result, the  
15 custom, practice or policy results in the retention of officers such as OFFICER MAX  
16 MEDEIROS, the OFFICER DEFENDANTS and DOES 11-20, who have a likely  
17 propensity to cause constitutional violations such as use of excessive force,  
18 unreasonable seizure, liberty deprivations and falsification of evidence.

19 78. Plaintiff is informed, believes and based thereon alleges that the CITY  
20 DEFENDANTS and DOES 1-10 generally failed to train, supervise and/or discipline  
21 CPD officers, including the OFFICER DEFENDANTS and DOES 11-20, in order to  
22 halt and prevent the type of conduct which resulted in violating Plaintiff's  
23 constitutional rights.

24 79. This failure to discipline said officers condones, ratifies, promotes and  
25 perpetuates CPD officers' misconduct and their "code of silence" and was a moving  
26 force behind the violations of Plaintiff's constitutional rights. The CPD officers  
27 lacked the necessary training, supervisor, counseling, guidance and skills to avoid  
28 such unconstitutional and otherwise unlawful conduct that has and will continue to

1 cause injuries to citizens. The above-referenced civil claims and lawsuits against  
2 officers of CPD demonstrate Defendants CITY DEFENDANTS, CPD, and DOES 1-  
3 10 failure to train and discipline their officers.

4 80. The policy maker and supervisor for the CPD officers at the time of the  
5 incident, named herein as a DOE defendant, had the duty to hire, train, supervise and  
6 discipline CPD officers who cause constitutional violations. Said Defendant created  
7 an unreasonable risk of harm to Plaintiff by failing to adequately hire, train,  
8 supervise and discipline CPD officers, in particular, OFFICER MAX MEDEIROS,  
9 the OFFICER DEFENDANTS and DOES 11-20. Said Defendant had an additional  
10 duty to make and maintain customs, policies, practices and/or procedures which  
11 address and cure the problems of use of excessive force and causing unreasonable  
12 seizures and liberty deprivations committed by CPD officers. Rather than creating or  
13 maintaining such customs, policies, practices and/or procedures, said Defendant  
14 created an unreasonable risk of harm to Plaintiff by condoning and having a  
15 deliberate indifference towards citizens' constitutional rights in connection with  
16 excessive use of force, unreasonable seizure and the deprivation of liberty by CPD  
17 officers, in particular, OFFICER MAX MEDEIROS, the OFFICER DEFENDANTS  
18 and DOES 11-20.

19 81. As a direct and proximate result of Defendants' wrongful conduct  
20 described hereinabove, Plaintiff MIRANDA suffered physical, emotional and  
21 financial injuries.

22 82. Plaintiff MIRANDA has suffered special and general damages as  
23 allowable under federal law in an amount to be proven at trial. These injuries and  
24 damages are ongoing.

25 83. Further, as a result of the foregoing, Plaintiff MIRANDA seeks an  
26 award of reasonable attorneys' fees and costs according to proof, pursuant to 42  
27 U.S.C. §1988.

28 ///

**FOURTH CLAIM FOR RELIEF**  
**(Violation of California *Civil Code* § 52.1 )**  
**(AGAINST ALL DEFENDANTS)**

84. Plaintiffs allege and incorporate herein by reference all of the allegations contained in paragraphs 1 through 83, inclusive, as if fully set forth herein.

85. The acts of OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS alleged herein constitute a violation of California Civil Code § 51.2. As alleged above, the acts of OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS violated PLAINTIFF'S right to be secure in his person and effects, against unreasonable searches and seizures, and to due process of law, as guaranteed by the Constitution and laws of the State of California, including Article I, § 1, 13 of the California Constitution, and the Fourth and Fourteenth Amendments of the United States Constitution.

86. These acts were committed by OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS with malice, oppression and fraud, justifying an award of punitive damages.

87. Defendants CITY DEFENDANTS and/or CPD and DOES 1-10 are liable for the acts of OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS pursuant to California Government Code Section 815.2.

**FIFTH CLAIM FOR RELIEF**  
**(False Arrest and False Imprisonment)**  
**(AGAINST ALL DEFENDANTS)**

88. Plaintiff alleges and incorporates herein by reference all of the allegations contained in paragraphs 1 through 87, inclusive, as if fully set forth herein.

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1           89. The acts of OFFICER MAX MEDEIROS and the other OFFICER  
2 DEFENDANTS and DOES 11-20, alleged herein caused the false arrest and false  
3 imprisonment of Plaintiff and caused the unlawful and unconstitutional deprivation  
4 of his liberty.

5           90. Defendants' actions wrongfully deprived Plaintiff of his liberty in  
6 violation of California law. Plaintiff was detained, arrested and held against his will  
7 for an unreasonable period of time.

8           91. At all times during the false arrest and imprisonment of Plaintiff,  
9 defendants OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS  
10 and DOES 11-20, were acting within the course and scope of their employment with  
11 Defendant CITY DEFENDANTS and/or CPD.

12           92. As a direct and proximate cause of Defendants' conduct, Plaintiff has  
13 suffered physical, psychological injuries, and severe emotional distress. Defendants'  
14 acts were intentional and done with malicious and oppressive intent. Plaintiff is  
15 entitled to general and compensatory damages in amounts to be proven at trial.  
16 Plaintiff is also entitled to punitive damages against the individual defendants  
17 because they acted maliciously, intentionally or with callous or reckless disregard for  
18 plaintiff's rights.

19           93. These acts were committed by OFFICER MAX MEDEIROS and/or  
20 other OFFICER DEFENDANTS were done with malice, oppression and fraud,  
21 justifying an award of punitive damages.

22           94. Defendants CITY DEFENDANTS and/or CPD and DOES 1-10 are  
23 liable for the acts of OFFICER MAX MEDEIROS and/or other OFFICER  
24 DEFENDANTS constituting false arrest and false imprisonment of Plaintiff pursuant  
25 to California Government Code Section 815.2.

26 ///

27 ///

28 ///

**SIXTH CLAIM FOR RELIEF**  
**(Negligent Infliction of Emotional Distress)**  
**(AGAINST ALL DEFENDANTS)**

95. Plaintiff alleges and incorporates herein by reference all of the allegations contained in paragraphs 1 through 94, inclusive, as if fully set forth herein.

96. The acts of OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS and DOES 11-20, alleged herein were below the standard of care that led to the false arrest and false imprisonment of Plaintiff.

97. OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS knew or should have known that said negligent acts would likely cause MIRANDA severe emotional distress. The acts of OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS were the cause of MIRANDA'S emotional distress.

98. These acts were committed by OFFICER MAX MEDEIROS and the other OFFICER DEFENDANTS were done with malice, oppression and fraud, justifying an award of punitive damages.

99. Defendants CITY DEFENDANTS and/or CPD and DOES 1-10 are liable for the acts of OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS pursuant to California Government Code Section 815.2.

**SEVENTH CLAIM FOR RELIEF**  
**(Intentional Infliction of Emotional Distress)**  
**(AGAINST ALL DEFENDANTS)**

100. Plaintiff alleges and incorporates herein by reference all of the allegations contained in paragraphs 1 through 99, inclusive, as if fully set forth herein.

101. OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS and DOES 11-20, engaged in intentional acts of assault, battery, false arrest and false imprisonment of MIRANDA. Furthermore, while committing the acts pled above,



1 OFFICER MAX MEDEIROS and/or other OFFICER DEFENDANTS were engaged  
2 in slandering, disparaging and humiliating MIRANDA.

3 102. As a consequence of OFFICER MAX MEDEIROS and other OFFICER  
4 DEFENDANTS and DOES 11-20, engaging in the aforementioned conduct, they  
5 intended to cause MIRANDA emotional distress and/or acted with reckless disregard  
6 of the probability that MIRANDA would suffer emotional distress or an exacerbation  
7 of emotional distress, knowing that MIRANDA was present when the conduct  
8 occurred.

9 103. The conduct of OFFICER MAX MEDEIROS and other OFFICER  
10 DEFENDANTS, and DOES 11-20, and each of them, was the direct and proximate  
11 cause of MIRANDA'S injuries, and were a substantial factor in exacerbating or  
12 causing MIRANDA to suffer and to continue to suffer from severe emotional  
13 distress, mental pain, anguish, embarrassment, humiliation, and psychological  
14 disturbance.

15 104. MIRANDA has suffered special and general damages as a result of the  
16 emotional distress, mental pain, anguish, embarrassment, humiliation and  
17 psychological disturbance in an amount according to proof at trial in excess of this  
18 Court's jurisdiction.

19 105. The CITY DEFENDANTS, which employed the OFFICER  
20 DEFENDANTS, is/are vicariously liable under principles of *respondeat superior*  
21 and the California Government Code Section 815.2, for the acts and omissions of  
22 OFFICER DEFENDANTS, and DOES 1-10, and said entity defendants are jointly  
23 and severally liable for MIRANDA'S special and general damages.

24 106. The aforementioned acts of OFFICER MAX MEDEIROS and other  
25 OFFICER DEFENDANTS and DOES 11-20, were despicable and subjected  
26 MIRANDA to cruel and unjust hardship, and indicated Defendants' intent to cause  
27 injury to MIRANDA, as well as their conscious disregard for the rights and safety of  
28 MIRANDA, and tend to show that the actions were willful, wanton, malicious, and

1 oppressive, thereby justifying an award of exemplary and punitive damages as to  
2 said individual Defendants.

### 3 **EIGHTH CLAIM FOR RELIEF**

4 **(Battery)**

5 **(AGAINST ALL DEFENDANTS)**

6 107. Plaintiff alleges and incorporates herein by reference all of the  
7 allegations contained in paragraphs 1 through 106, inclusive, as if fully set forth  
8 herein.

9 108. In tackling MIRANDA, beating and kicking him and torquing his arm  
10 in such a violent fashion, Defendant OFFICER MAX MEDEIROS and other  
11 OFFICER DEFENDANTS and DOES 11-20, touched MIRANDA with the intent to  
12 harm or offend MIRANDA, or touched MIRANDA with a willful disregard of  
13 MIRANDA'S rights. MIRANDA did not consent to this harmful and offensive  
14 touching and said contact produced the injuries described above.

15 109. The CITY DEFENDANTS, which employed the OFFICER  
16 DEFENDANTS, is/are vicariously liable under principles of *respondeat superior*  
17 and the California Government Code Section 815.2, for the acts and omissions of  
18 OFFICER DEFENDANTS, and DOES 1-10, and said entity defendants are jointly  
19 and severally liable for MIRANDA'S special and general damages.

20 110. As a direct and proximate result of Defendants' conduct, MIRANDA  
21 suffered serious, permanent and debilitating physical, psychological and emotional  
22 injuries, which have forced him to seek treatment from hospitals, physicians,  
23 surgeons, and other medical professionals. Additionally, because of said injuries,  
24 MIRANDA has been forced to miss work and has suffered lost earnings. The amount  
25 of special damages claimed by MIRANDA exceeds the jurisdictional amount of this  
26 Court, and which will be sought by MIRANDA according to proof at the time of  
27 trial.  
28

111. The aforementioned acts of OFFICER MAX MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20, were willful, wanton, malicious, and oppressive, thereby justifying the awarding of exemplary and punitive damages as to said individual Defendants.

**NINTH CLAIM FOR RELIEF**

**(Assault)**

**(AGAINST ALL DEFENDANTS)**

112. Plaintiff alleges and incorporates herein by reference, each and every allegation contained in paragraphs 1 through 111 of this Complaint, as fully set forth herein.

113. MIRANDA brings this cause of action as against all Defendants.

114. The conduct of Defendants OFFICER MAX MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20, caused MIRANDA to reasonably believe that he was about to be touched in a harmful and/or offensive manner on several occasions as described above.

115. MIRANDA did not consent to the conduct of any Defendant.

116. MIRANDA was harmed by the conduct of Defendants OFFICER MAX MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20, and each of them.

117. Plaintiff is informed, believes, and based thereon alleges that in engaging in the conduct alleged herein, Defendants OFFICER MAX MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20, and each of them, acted with the intent to injure, vex, annoy and harass MIRANDA, and subjected MIRANDA to cruel and unjust hardship in conscious disregard of MIRANDA' rights with the intention of causing MIRANDA injury and depriving him of his constitutional rights.

118. As a result of the foregoing, MIRANDA seeks exemplary and punitive damages against Defendants OFFICER MAX MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20, and each of them.

119. The CITY DEFENDANTS, which employed the OFFICER DEFENDANTS, is/are vicariously liable under principles of *respondeat superior* and the California Government Code Section 815.2, for the acts and omissions of OFFICER DEFENDANTS, and DOES 1-10, and said entity defendants are jointly and severally liable for MIRANDA'S special and general damages

**TENTH CLAIM FOR RELIEF**

**(For Negligence)**

**(AGAINST ALL DEFENDANTS)**

120. Plaintiff alleges and incorporates herein by reference all of the allegations contained in paragraphs 1 through 117, inclusive, as if fully set forth herein.

121. As peace officers, Defendants OFFICER MAX MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20, and each of them, owed MIRANDA a duty of reasonable care in the performance of their duties.

122. Said Defendants breached their reasonable duty of care toward MIRANDA by among other things: (1) beating and kicking him and torquing his arm in such a violent fashion; (2) failing to use proper police procedure in the arrest of MIRANDA; (3) handcuffing and needlessly detaining MIRANDA for hours, when he had not engaged in any illegal conduct; (4) issuing MIRANDA a citation containing false and fabricated violations of resisting arrest that all Defendants knew or should have known were false; (5) recklessly mishandling MIRANDA'S broken arm so as to cause further damage and pain; and (6) failing to take corrective action as a result of the wrongful conduct of the OFFICER DEFENDANTS and allowing unwarranted detention of MIRANDA to proceed.

123. As a consequence of the negligence of Defendants OFFICER MAX MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20, and each of them, MIRANDA did and will continue to suffer general and special damages that will be determined according to proof at the time of trial.

1 124. Defendants CITY and/or CPD are liable in respondeat superior for the  
2 aforementioned acts of OFFICER DEFENDANTS pursuant to California  
3 Government Code Section 815.2.

4 **PRAYERS FOR RELIEF**

5 Wherefore, Plaintiff prays for judgment against Defendants and DOES, and  
6 each of them, on each and every cause of action as follows:

- 7 1. For declaratory and injunctive relief preventing similar future harm;  
8 2. For general damages according to proof at trial;  
9 3. For special damages according to proof at trial;  
10 4. For an award of punitive damages against Defendants OFFICER MAX  
11 MEDEIROS and other OFFICER DEFENDANTS and DOES 11-20;  
12 5. For attorney's fees and costs under 42 U.S.C. § 1988, C.C.P. § 1021.5,  
13 or under any other applicable statutes or law;  
14 6. For an award of Plaintiffs' costs of suit incurred herein;  
15 7. For an award of any applicable statutory penalties;  
16 8. For an award of any applicable interest amounts; and  
17 9. For any other relief the Court deems appropriate.

18 Respectfully submitted.

19 Dated: August 6<sup>th</sup>, 2015

**TIEDT & HURD**

20  
21 Bv: 

22 JOHN E. TIEDT  
23 MARC S. HURD  
24 Attorneys for Plaintiff,  
25 JOSE ANGEL MIRANDA  
26  
27  
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**DEMAND FOR JURY TRIAL**

Plaintiff, JOSE ANGEL MIRANDA, hereby demands a trial by jury of all claims and issues triable by jury.

Dated: August 6<sup>th</sup>, 2015

Respectfully submitted.

**TIEDT & HURD**

Bv: \_\_\_\_\_

JOHN E. TIEDT  
MARC S. HURD  
Attorneys for Plaintiff,  
JOSE ANGEL MIRANDA



EXHIBIT "1"

CPLT  
OUE  
12/26/15



City of Corona  
Human Resources Department – Risk Management

Office: 951.736.2209  
Fax: 951.736.2449

400 S. Vicentia Ave Corona CA 92882  
City Hall Online All The Time – <http://www.DiscoverCorona.com>

June 29, 2015

**Tiedt & Hurd**  
**980 Montecito Drive #209**  
**Corona, CA 92879**  
**Attn: John E. Tiedt**

**YOUR CLIENT: Jose Miranda**  
**DATE OF LOSS: 12/12/14**  
**OUR CLAIM NO: 0515-05**

In accordance with Government Code, notice is hereby given that the claim which you presented to the City of Corona on May 21, 2015 is hereby denied and rejected.

**WARNING**

Subject to certain exceptions, you have only six months from the date this notice was personally delivered or deposited in the mail to file a court action in a municipal or superior court of the State of California on this claim. (See Section 945.6 of the Government Code.)

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

CITY OF CORONA

Amy Rich  
Risk Manager  
951-736-2206

Cc: Jessica Pickering, Carl Warren & Company